Manitoba

Annual Report 2000 - 2001

Seizure and Impoundment Registry

Includes 10% post-consumer waste

101-06427/

MINISTER OF JUSTICE
ATTORNEY GENERAL

Room 104
Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

The Honourable Peter M. Liba, C.M.
Lieutenant-Governor of Manitoba

MAY IT PLEASE YOUR HONOUR:

It is my privilege to present, for the information of Your Honour, the Annual Report of the Seizure and Impoundment Registry for the year ending March 31, 2001.

Respectfully submitted,

Honourable Gord Mackintosh
Minister of Justice
Attorney General

Manitoba

Deputy Minister of Justice
and Deputy Attorney General

Room 110
Legislative Building
Winnipeg MB R3C 0V8

Honourable Gord Mackintosh
Minister of Justice
Attorney General of Manitoba
Room 104 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Sir:

I submit for your approval the Annual Report of the Seizure and Impoundment Registry for the year ending March 31, 2001.

Respectfully submitted,

Bruce A. MacFarlane, Q.C.
Deputy Minister of Justice and
Deputy Attorney General

Manitoba 2000

Our Past. Our Future. Our Celebration.
Notre passé. Notre avenir. Notre fête.

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Introduction

In November 1989, the Government of Manitoba enacted legislation to reduce the negative social impacts associated with impaired and suspended drivers.

Under this legislation, peace officers were given expanded powers to seize and impound a motor vehicle when they had reason to believe it was being operated by a person who was suspended, disqualified or otherwise prohibited from driving in Manitoba.

Since November 1989, the Vehicle Impoundment Program has expanded in two ways:

a) the current vehicle impoundment sanctions for driving while disqualified were extended to include alcohol-related offences and as well, amendments were introduced to extend the impoundment sanctions to the operators of off-road vehicles.

b) the Government introduced measures that result in the forfeiture of vehicles where an offender is convicted of a prostitution-related offence.

The Seizure and Impoundment Registry is the administrative centre where the status of each vehicle seized in the Province of Manitoba is recorded. Records maintained by the Registry include the name of the driver, the owner, the police agency, and the location of each seizure. As well, statistics are kept as to the number of hearings conducted by justices, all claims that the owner or garage keeper has applied for and the number of wrongful seizures. The Registry also maintains continuous contact with any garage keeper that stores a vehicle impounded under this legislation.

PROGRAM SUMMARY

a) Suspension and Alcohol-Related Seizures

In November 1989, legislation was introduced to allow a peace officer to seize and impound a motor vehicle for 30 days, if operated while the driver was suspended or prohibited from driving.

Since November of 1989, the following changes to the legislation have been enacted:

- In December 1991, the impoundment period increased to 60 days for an owner considered to be a repeat offender within a two year period.
- In September 1997, the extension period for repeat offenders increased to 90 days, the administration fee increased to $75.00, and the application fee for a revocation hearing increased to $100.00.
- In December 1999, the offences of Drive Over .08 and Refuse to Provide Breath or Blood Sample were included in the seizure provisions. As well, off-road vehicles are now considered to be motor vehicles for the seizure legislation.

On December 1, 2000 the legislation was further amended to double the impoundment periods for certain offenders. As a result, people driving with a blood alcohol level over .16 or drivers who refuse to provide a breath or blood sample will lose their vehicle for 60 days on a first offence, and 180 days for a second offence. Each subsequent offence will add another 60 days to the impoundment period. As well, the time period for calculating a repeat offence increased from two years to five.

An owner has the right to apply to a justice for a hearing to revoke the impoundment of his or her vehicle. The impoundment may be revoked if the justice is satisfied that:

a) the owner could not reasonably have been expected to know that the person driving the motor vehicle:
    - was suspended or prohibited from driving;
    - would operate or have care or control of a vehicle while their blood level was over .08;
    - would fail or refuse to provide a breath sample.

OR

b) the owner did not know that he or she was suspended or prohibited from driving.

The designate of the Minister of Justice may release the motor vehicle if he or she is satisfied that the vehicle has been wrongfully seized and impounded or if the vehicle was reported stolen at the time of the impoundment.

This legislation also gives the designate of the Minister of Justice the authority to transfer the ownership of any vehicle to the garage keeper who stores it if the vehicle remains unclaimed after the expiration of the impoundment period, and if the value of the vehicle is less than the amount owing to the garage keeper.

Upon completion of the impoundment period, the owner of the vehicle is liable for all costs related to the impoundment of the vehicle, including the costs of towing, storage and the $75 administration fee levied to offset the provincial cost to administer the program. On average, the total cost to the owner to have his or her vehicle released is approximately $400 after completion of the 30 day impoundment period or approximately $675 after completion of a 60 day impoundment period.

Under Section 242.1(12) of The Highway Traffic Act, the owner of the motor vehicle may seek to recover any costs from the person who was the driver at the time the motor vehicle was seized.

b) Prostitution-Related Seizures

In March 1999, legislation was introduced to allow a peace officer to seize and impound a motor vehicle if operated in the course of committing a prostitution-related offence under the Criminal Code.

If an owner is convicted of the offence, the vehicle is forfeited to the Province of Manitoba with the net proceeds from the sale of the vehicle used to assist groups or organizations that support or deliver programs to reduce the occurrence of prostitution-related offences.

If the driver of a seized vehicle is eligible for a program of alternative measures, the vehicle can be released subject to payment of the appropriate costs and charges.

The owner, who is not the driver, has the right to apply to a justice for a hearing to revoke the impoundment of his or her vehicle. The justice may revoke the impoundment if he or she is satisfied that the owner could not reasonably have known that the vehicle was being operated in the course of committing a prostitution-related offence.

If an owner is charged with a prostitution-related offence, he or she may apply to the designated person for the release of the vehicle on deposit of a sum of money or security for money equal to the value of the vehicle. If the owner is convicted of the charge, the deposit is forfeited to the Province of Manitoba. If the owner is not convicted of the charge, the deposit is returned.

IMPOUNDMENT PROGRAM RESULTS

a) Suspension and Alcohol-Related Seizures

During the reporting period, 3,859 vehicles were impounded, compared to 2,401 vehicles impounded during the same period in 1999-2000. This represents a one year increase of 1,458 seizures or 60.7%. Of the 3,859 vehicles seized, 58 were off-road vehicles seized as a result of a suspension or an alcohol-related offence.

There are currently 54 Justices who have been appointed by the Chief Judge of the Provincial Court of Manitoba to conduct impoundment hearings. In 2000-2001, 829 owners applied for a revocation hearing and 702 or 84.7% successfully had their impoundments revoked before the expiration of the impoundment period. Of the total seizures in 2000-2001, 18.2% were revoked, whereas 3.3% of the total seizures were ordered to be continued.

There are currently 169 garage keepers registered with the Vehicle Impoundment Program, with approximately 110 participating on a monthly basis.

b) Prostitution-Related Seizures

During the reporting period, 87 vehicles were impounded. Of these seized vehicles, 76 or 87.4% were released as a result of the driver being eligible for the alternative measures program, eight of the owners applied to a justice and were successful in having the vehicle released, and two vehicles were released based on the owner depositing security to release the vehicle. There is one vehicle that remains impounded pending the disposition of the criminal charges.

Since the introduction of this legislation, one vehicle has been forfeited to the Province of Manitoba. This vehicle was auctioned and the net proceeds will be used to assist groups or organizations that support or deliver programs to reduce the occurrence of prostitution-related offences.

TABLES AND SUPPORTING CHARTS

a) Suspension and Alcohol-Related Seizures

A summary of results for the reporting period is provided in Tables 1 to 7 and Chart 1 attached to this report. The data contained in this report is based on information forwarded by various police agencies, court offices, garage keepers and Justices throughout the Province.

Reported numbers from previous years may vary from previously issued reports as the data is continually updated with information that may be received from the various agencies after the reporting date.

Table 1

Monthly Statistics for the fiscal year ending March 31, 2001

Month	Total Vehicles Seized	Vehicles Claimed		Vehicles Disposed / Unclaimed	
April 2000	314	269	86%	45	14%
May 2000	355	284	80%	71	20%
June 2000	338	270	80%	68	20%
July 2000	378	301	80%	77	20%
August 2000	358	298	83%	60	17%
September 2000	363	285	79%	78	21%
October 2000	357	280	78%	77	22%
November 2000	287	240	84%	47	16%
December 2000	279	206	74%	73	26%
January 2001	266	183	69%	83	31%
February 2001	270	155	57%	115	43%
March 2001	294	60	20%	234	80%
Total Vehicles Seized	**3859**	**2831**	**73%**	**1028**	**27%**

Table 2

Status of Vehicles Seized

Vehicles Claimed		2831
Vehicles Transferred		45
Vehicles Auctioned		124
Vehicles Released		109
Vehicles Unclaimed		
60 days & under	351	
61 to 90 days	73	
91 days & over	326	750
Total Number Vehicles Seized		**3859**

Table 3

Age Analysis

This table represents data for the fiscal year April 1, 2000 to March 31, 2001.

Age of Driver	April 1, 2000 to March 31, 2001	
16 to 20	620	16.07%
21 to 25	806	20.89%
26 to 30	574	14.87%
31 to 35	504	13.06%
36 to 40	467	12.10%
41 to 45	356	9.23%
46 to 50	232	6.01%
51 to 55	125	3.24%
56 to 60	71	1.84%
61 to 65	38	0.98%
66 to 70	26	0.67%
71 to 75	21	0.54%
76 to 80	13	0.34%
81 plus	6	0.16%
	3859	**100.00%**

Chart 1

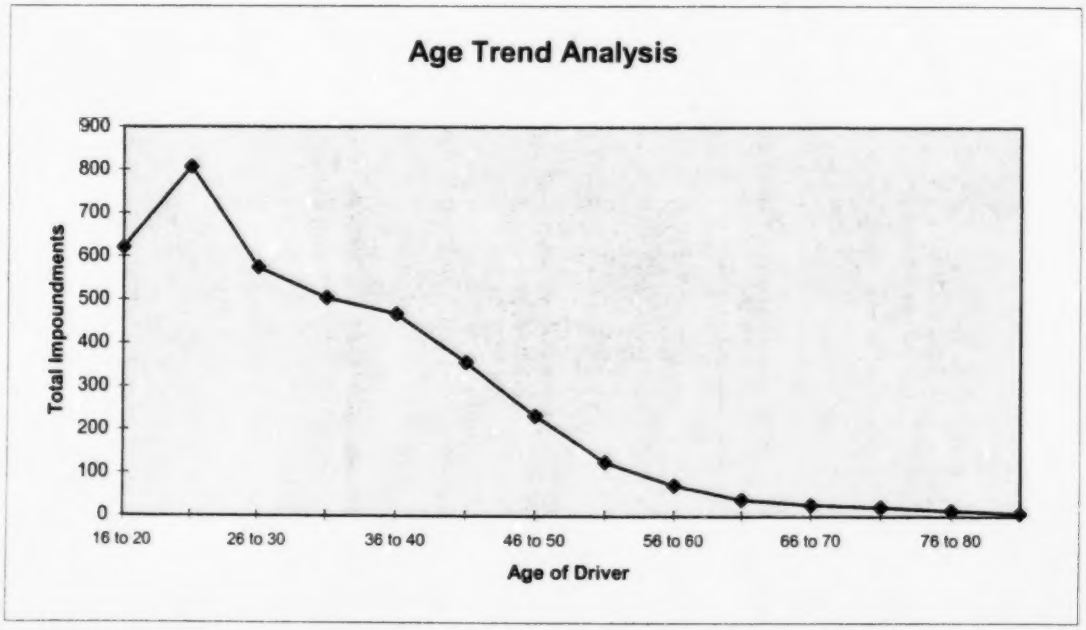

Table 4

Seizures and Applications for Orders of a Justice under Section 242.1(4) of The Highway Traffic Act

(A hearing for the revocation of an impoundment of a motor vehicle)

2000 - 2001	Seizures		Applications to Revoke (% - total seizures)	
Winnipeg	1678	43%	531	32%
Regional	2181	57%	298	14%
Total Provincial	**3859**	**100%**	**829**	**21%**

Revocation Orders
Winnipeg / Regional

Applications to Revoke	Total Revocation Applications	Revoked		Continued	
Winnipeg	531	440	83%	91	17%
Regional	298	262	88%	36	12%
Total Provincial	**829**	**702**	**85%**	**127**	**15%**

The total number of hearings held represents 21% of the total seizures for the reporting period. Successful revocations represents 85% of all hearings.

Table 5

Extension of Vehicle Impoundment for Repeat Offenders Sections 242.1(7.1.1) & (7.1.2) of the Highway Traffic Act

Month	Extensions Issued	Extensions Completed	Impoundment Revocations
April 2000	27	25	2
May 2000	31	27	4
June 2000	31	27	4
July 2000	22	20	2
August 2000	37	34	3
September 2000	31	27	4
October 2000	37	37	0
November 2000	31	28	3
December 2000	25	22	3
January 2001	21	20	1
February 2001	25	24	1
March 2001	21	20	1
Total	**339**	**311**	**28**

On December 1, 1991, legislation was proclaimed to extend the impoundment period from 30 to 60 days for owners with more than one occurrence within a two-year period.

On September 1, 1997, the legislation was amended to increase the extended impoundment period from 60 to 90 days for the owner who has had a previous occurrence.

On December 1, 2000, the legislation was amended to allow for increased impoundment periods for repeat offenders. Where the legislation previously allowed for owners to receive an extended impoundment period of 90 days, regardless of how many prior offences, the amendments now allow for 60 days to be added to the initial impoundment period for each subsequent offence that an owner has.

Of the total number of vehicles seized in the 2000-2001 fiscal year, 8.8% were impounded for an additional period under this section of The Highway Traffic Act. In this fiscal year, the number of extensions issued has increased by 33% or 84 seizures as compared to the previous fiscal year.

Note: Since proclamation of this legislation, a total of 2,662 extensions were issued from the Impoundment Registry. This figure represents 13.1% of the 20,293 seizures issued over the period of the legislation allowing extensions.

Table 6

Number of Offenders - Repeat Owners

This table represents the number of owners who have had a vehicle seized and impounded on two or more occasions. Effective December 1, 2000, subsequent offences that occur within a five year period will be recorded as a repeat offence.
This data includes owners who were either the driver of the vehicle or who had, on more than one occasion, allowed their vehicle to be operated by a different driver.

Owners	Number Of Offenders	Number of Vehicles Involved	Vehicles Driven by Owner	Vehicles Driven by Another
2x repeaters	459	918	465	453
3x repeaters	67	201	69	132
4x repeaters	9	36	7	29
5x repeaters	2	10	5	5
6x repeaters	1	6	5	1
19x repeaters*	1	19	0	19
Total	**539**	**1190**	**551**	**639**

Note: As the legislation was intended to focus on the owner of the vehicle as the responsible party, the analysis concentrates on repeat owner statistics. During the same reporting period 1,473 vehicles were seized in which the driver of the vehicle had been involved in a previous impoundment either as the owner of a seized vehicle or as the driver of a vehicle owned by another party.

Repeat drivers account for 21.8% of all seizures over the same period.
Repeat owners account for 17.6% of all seizures over the same period.

*This repeat offender represents a car rental business, not an individual person.

Table 7

Financial Report

** This report includes revenue received from vehicle seizures as a result of suspension and alcohol-related offences, as well as prostitution-related offences.

Revenue	April 1, 2000 to March 31, 2001	
Provincial Fees Collected:		
Suspension/Alcohol-Related Offences	$243,175.00	
Prostitution-Related Offences	$6,900.00	
		$250,075.00
Claims / Refund		
Suspension/Alcohol-Related Offences		
- Provincial fees refunded	($75.00)	
- Claims settled for direct costs	($107.00)	
		($182.00)
Net Revenue		**$249,893.00**